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[10121/00308-00-0044CON2]

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Inventor(s) : McAlister et al.
Serial No. : 10/764,619
Filing Date : January 26, 2004
For : Stapling and Cutting in Resectioning for Full Thickness Resection Devices
Group Art Unit : 3731
Examiner : Gary Jackson

Mail Stop: Petitions
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

**TERMINAL DISCLAIMER TO OBLIGATE A
DOUBLE PATENTING REJECTION OVER A PRIOR PATENT**

BOSTON SCIENTIFIC SCIMED, INC. is the owner of 100% percent interest in the above-identified application and U.S. Patent No. 6,716,222. The owner hereby disclaims, except as provided below, the terminal part of the statutory term of any patent granted on the instant application, which would extend beyond the expiration date of the full statutory term defined in 35 U.S.C. 154 to 156 and 173, as presently shortened by any terminal disclaimer, of prior U.S. Patent No. 6,716,222. The owner hereby agrees that any patent so granted on the instant application shall be enforceable only for and during such period that it and the prior patents are commonly owned. This agreement runs with any patent granted on the instant application and is binding upon the grantee, its successors or assigns.

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I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Date: July 5, 2005

By:



Oleg F. Kaplun (Reg. No. 45,559)

- Terminal disclaimer fee under 37 CFR 1.20(d) included.
- PTO suggested wording for terminal disclaimer was
 - unchanged,
 - changed (if changed, an explanation should be supplied).

[10121/00308]

19270 10/764619 U.S. PTO 012604

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Inventor(s) : **Gary McALISTER**
Robert L. SAKAL

Serial No. : **To Be Assigned**

Filing Date : **Herewith**

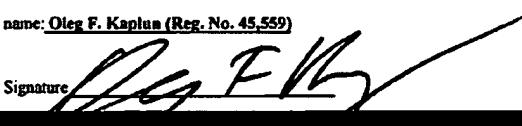
For : **STAPLING AND CUTTING IN
RESECTIONING FOR FULL THICKNESS
RESECTION DEVICES**

Group Art Unit : **To Be Assigned**

Examiner : **To Be Assigned**

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450
Mail Stop: New Patent Application

USPTO Customer No.: 30636
(Please associate the application with this
Customer No.)
Attorney Docket No.: 10121/00308

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| I hereby certify that this correspondence is being deposited with the United States Postal Service "Express Mail Post Office to Addressee" service under 37 CFR 1.10 on the date indicated above and is addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA. 22313-1450 | |
| name: <u>Oleg F. Kaplun (Reg. No. 45,559)</u> | |
| Signature |  |

**CONTINUATION APPLICATION REQUEST TRANSMITTAL
LETTER UNDER 37 CFR 1.53(b)**

SIR:

Enclosed herewith please find the following:

1. **10 sheets of Specifications, 9 sheets of Claims and 1 sheet of Abstract.**
2. **14 sheets of Drawings.**
3. **Executed Assignment along with Recordation Cover Sheet and a check in the amount of 40.00.**

4. Executed Power of Attorney.
5. Executed Declaration.
6. Preliminary Amendment.
7. Returned Receipt Postcard.

Claim Priority:

Priority is claimed to U.S. Patent Application Serial No. 10/083,097 filed February 26, 2002 "Stapling and Cutting in Resectioning for Full Thickness Resection Devices" which is a continuation of application Serial No. 09/727,051, filed November 30, 2000, entitled "Stapling and Cutting in Resectioning for Full Thickness Resection Devices". The entire disclosure of these prior applications, from which a copy of the declaration, power of attorney and assignment supplied, are considered as being part of the disclosure of the accompanying application and are hereby expressly incorporated by reference herein.

Please charge the deposit account of **Fay Kaplun & Marcin, LLP**, deposit account no. **50-1492** in the amount of **\$770.00** for the filing fee calculated as shown below:

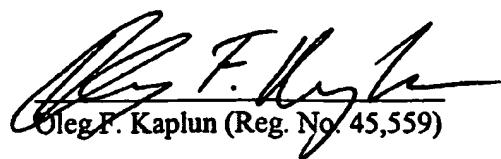
| | NUMBER FILED | NUMBER EXTRA | Rate (\$) | FEE (\$) |
|--|--------------|--------------|-----------------------|----------|
| PATENT APPLICATION - BASIC FEE | | | | 770.00 |
| TOTAL CLAIMS | 16 - 20 = | 0 | 18.00 | |
| INDEPENDENT CLAIMS | 3 - 3 = | 0 | 86.00 | |
| MULTIPLE DEPENDENT CLAM PRESENT | | | | 0.00 |
| Number extra must be zero or larger | | | TOTAL | 770.00 |
| If applicant is a small entity under 37 C.F.R. §§ 1.9 and 1.27, then divide total fee by 2, and enter amount here. | | | SMALL ENTITY TOTAL | |

The Commissioner is hereby authorized to charge the payment of any additional fees associated with this communication or arising during the pendency of this application, with the exception of the issue fee, to the Deposit Account of **Fay Kaplun & Marcin, LLP** No. **50-1492**.

When payment of the issue fee has previously been provided or authorized, the Commissioner is hereby authorized to charge any post issuance fees required, except for patent maintenance fees, to the Deposit Account of **Fay Kaplun & Marcin, LLP No. 50-1492**. A copy of this transmittal letter is enclosed for Deposit Account purposes.

Date: January 26, 2004

By:



Oleg F. Kaplun (Reg. No. 45,559)

Fay Kaplun & Marcin, LLP
150 Broadway, Suite 702
New York, NY 10038

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